

Thomas-Jensen Affirmation

Exhibit # 117

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF NEW YORK; et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as
President of the United States; et al.,

Defendants.

C.A. No. 1:25-cv-00039-JJM-PAS

**DECLARATION OF THOMAS J.
KELLY**

Declaration of Thomas J. Kelly

I, Thomas J. Kelly, declare as follows:

1. I am a resident of the State of Washington. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the Washington Office of Superintendent of Public Instruction (OSPI) as the Chief Financial Officer, and have been for the last eight years.

3. OSPI is responsible for the supervision of public K-12 education in Washington State. We oversee 295 public school districts, 16 public charter schools, and 7 state-tribal education compact schools. OSPI allocates funding and provides tools, resources, and technical assistance to school districts and families across Washington State. This includes students younger than five years old, such as Transition to Kindergarten (TK) students, as well as preschool students who are impacted by Individuals with Disabilities Act (IDEA) federal funding.

4. As the Chief Financial Officer, I oversee the Financial Resources department of OSPI, which provides vital information, fiscal services and policy support that OSPI needs to serve the children of Washington State. Financial Resources plays a central role in budget planning,

policy development, and fiscal administration for OSPI. My job duties include overseeing OSPI's school apportionment division, capital division, student transportation division, internal financial services office, and audit resolution team. My job duties also include overseeing OSPI's audit resolution processes.

5. As Chief Financial Officer for OSPI, I have knowledge of how OSPI receives funding from both the state and federal governments and how those funds are used and distributed in providing public education.

6. I am aware of the January 27, 2025, memorandum from Office of Management and Budget Acting Director Matthew J. Vaeth regarding a "Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs." This memorandum directed all federal agencies to, among other things, "temporarily pause all activities related to obligation or disbursement of all Federal financial assistance" for an undisclosed amount of time.

7. Even though the Vaeth memo was purportedly rescinded, it is at best unclear whether federal authorities have abandoned the strategy and policy objectives described in the memorandum. Nor is it clear whether federal authorities will refrain from a similar pause in federal funding in the future.

8. If such a pause went into effect, it would have a devastating effect on K-12 public education system for the State of Washington, its operations, and its residents.

9. OSPI regularly reports its State Expenditure of Federal Awards ("SEFA"). The SEFA report includes all federal funds that Washington State receives in a given fiscal year.

10. For the most recent 2023-2024 school year (FY2024), running from September 1, 2023, to August 31, 2024, school districts received over \$1.4 billion in federal funding. This comprised approximately 6% of school district revenue for that school year. School districts report federal aid claimed through over 70 distinct funding streams. These programs serve some of our most vulnerable students. If "federal financial assistance," as defined under 2 C.F.R. 200.1, is withheld, it puts a number of programs at risk, including:

a. *National School Lunch Program*, which amounted to over \$361 million in

FY2024 SEFA. This revenue reimburses school districts for student meals served under a variety of school meals programs offered through the federal government. Public school districts, private schools, residential childcare institutions, and charter schools may participate in school meal programs;¹

b. *Title I Education Grants*, which amounted to over \$310 million in FY2024 SEFA. Title I funds instructional help to children whose academic performance is below average, based on a formula that targets funding to schools and districts with higher percentages of students in poverty;² and

c. *Special Education Grants*, which amounted to over \$275 million in FY2024 SEFA. This program serves to meet the excess costs of providing special education and related services to children with disabilities, including support and direct services, technical assistance and personnel preparation, assisting schools in providing positive behavioral interventions and supports, and improving the use of assistive technology in the classroom.³

11. In the next approximately 20 months (through September 30, 2026), Washington State is scheduled to receive access to approximately \$750 million under our current federal grants. These funds include Title I Basic and IDEA-B, 611 Special Education disbursements.

12. We continue to be concerned that the funding will be delayed or denied given the apparent intent of the federal government to continue carrying out a funding freeze. Thus, OSPI cannot rest assured that a future funding freeze will not occur, nor that any such freeze would be temporary.

13. If federal funds are again suddenly withheld or delayed, even temporarily, the State of Washington and Washington public schools simply do not have funds to cover all of these

¹ <https://ospi.k12.wa.us/policy-funding/child-nutrition/school-meals/national-school-lunch-program>

² <https://ofm.wa.gov/budget/agency-activities-and-performance/agency-activities/350#:~:text=The%20state%20Learning%20Assistance%20Program,learning%20needs%20in%20the%20district.>

³ <https://www.ed.gov/grants-and-programs/formula-grants/formula-grants-special-populations/special-education-grants-to-states>

critical programs that are currently funded through federal dollars. And Washington most certainly does not have the funds to backfill federal dollars while continuing to pay for all of the many state-funded programs on which its youngest residents rely. Thus, pausing or terminating federal funds would necessarily entail cuts—likely drastic cuts—to the education services provided by the Washington K-12 public school system, which includes OSPI and local education agencies.

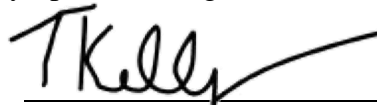
14. This threat to federal funding comes at a precarious time for Washington. Our state is one of several states facing a budget shortfall. Washington is facing a forecasted budget deficit of more than \$12 billion over the next four years.

15. It is also a challenging time for the funding of Washington public schools. Several public-school districts are already under financial oversight from OSPI, a process that occurs when a school district is unable to produce a balanced budget and must request assistance from OSPI to come into financial compliance, and to that end must agree to meet certain financial benchmarks.⁴

16. Any attempt to withhold additional billions of dollars in federal funding, even temporarily, would interfere with critical state education programs, impact delivery of services to Washington K-12 students, negatively impact already challenging school district budgets, significantly worsen Washington's budget shortfall, and make it nearly impossible for state agencies to prioritize budgeting needs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2025, at Olympia, Washington.



THOMAS J. KELLY
Chief Financial Officer
Washington Office of Superintendent of
Public Instruction

⁴ See Washington Administrative Code (WAC) 392-123-060.